

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 10815 OF 2017

Rajbasant Kharpattu Prasad	... Petitioner
Versus	
Gangadhar Chaniya Bari and others	... Respondents

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Mr. Ramdas Hake Patil for the Petitioner.
Mr. Nitin Gangal for Respondents.

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CORAM : MRS. MRIDULA BHATKAR, J.

DATE : 4th JULY, 2018.

P. C.:

1. Rule. Rule is made returnable forthwith and heard finally by consent of the parties.

2. The order dated 24th October, 2016 passed by the Civil Judge, Junior Division, Dahanu, below Exhibit-42 in R.C.S. No. 74 of 2016 is under challenge. The issue involved in the plaint was about repairs of the house property. The Plaintiff has filed the suit for simplicitor injunction. By order dated 4th July, 2016, the learned Civil Judge, Junior Division, Dahanu has allowed the application Exhibit-5 with specific directions in order to repair the disputed house property as follows:-

- (a) To cover the plastic sheet on the suit property.
- (b) To repair the door.
- (c) The hole of the wall is to be closed by fixing a new wooden ply.

3. In order to comply the order, as there was obstruction on the side of the respondents-defendants, the plaintiff moved application for police protection and the same is rejected. Hence, this Writ Petition.

4. Heard the submissions of both the learned Counsel.

5. Learned Counsel for the Respondents submits that Respondents never obstructed and do not want to obstruct the repairs as ordered by the trial Court. In view of this, the issue can be solved by following order.

:: O R D E R ::

- (i) The Plaintiff may cover his house not with plastic sheets, but by rexine. Other repairs as mentioned in the order dated 4th July, 2016 are to be strictly complied with. No more repairs are to be carried out under the pretext of the compliance of the said order.

- (ii) The trial Court is directed to appoint a Court Officer to certify the repair work done by the plaintiff as per the order or not.
- (iii) Learned Counsel for the Petitioner submits that he will carry out the repair work within a period of two weeks from today i.e. on or before 17th July, 2018.
- (iv) The parties to appear before the trial Court on 20th July, 2018 on 11.00 a.m. and on that day the trial Court may appoint a Court Officer to visit the suit premises and certify the compliance. An amount of Rs. 1000/- to be paid to the Court Officer by the Plaintiff.
- (v) Rule is made absolute accordingly. The Writ Petition is disposed of.

(MRIDULA BHATKAR, J.)